



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Great Plains Regional Office  
115 Fourth Avenue S.E., Suite 400  
Aberdeen, South Dakota 57401

IN REPLY REFER TO:  
DESCRM  
MC-208

JUL 30 2012

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: <sup>Acting</sup> Regional Director, Great Plains Region

SUBJECT: Environmental Assessment Addendum and Finding of No Significant Impact

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, an Addendum has been completed and a Finding of No Significant Impact (FONSI) has been issued. The Addendum authorizes land use for the expansion of the Birdsbill #14-16H well pad to accommodate the addition of the HB oil and gas well on the Fort Berthold Indian Reservation.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the Addendum, FONSI and Notice of Availability. The Council on Environmental Quality (CEQ) regulations require that there be a public notice of availability of the (40 C.F.R. Section 1506.6(b)). Please post the attached notice of availability at the Agency and Tribal buildings for 30 days.

If you have any questions, please call Marilyn Bercier, Regional Environmental Scientist, Division of Environment, Safety and Cultural Resources Management, at (605) 226-7656.

Attachment

cc: Tex Hall, Chairman, Three Affiliated Tribes (with attachment)  
Elgin Crows Breast, Tribal Historic Preservation Officer (with attachment)  
Derek Enderud, BLM, Bureau of Land Management (with attachment)  
Mike Cook, SWCA (with attachment)  
Carson Hood/Fred Fox, MHA Energy Dept. (with attachment)  
Eric Wortman, EPA (with attachment)  
Jonathon Shelman, Corps of Engineers  
Jeff Hunt, Fort Berthold Agency

*Finding of No Significant Impact*

*WPX Energy Williston, LLC*

*Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Birdsbill #14-16H Well Pad to Accommodate the Addition of the HB Oil and Gas Well*

*Fort Berthold Indian Reservation  
Dunn County, North Dakota*

The U.S. Bureau of Indian Affairs (BIA) has received a proposal to authorize land use for the construction and installation associated with the expansion of the existing Birdsbill #14-16H well pad (expansion) to accommodate the addition of one oil and gas well, i.e., Birdsbill #14-16HB (well). Developments have been proposed on land held in trust by the United States within the Fort Berthold Indian Reservation, Dunn County, North Dakota. The Birdsbill #14-16H well pad is located approximately 4.7 miles east of Mandaree, North Dakota, in the SE¼ SW¼ of Section 16, Township (T) 149 North (N), Range (R) 93 West (W), Dunn County, North Dakota. The proposed bottom hole for the Birdsbill #14-16HB well is approximately 2,075 feet from the west line and 250 feet from the north line in the NE¼ NW¼ of Section 16, T149N, R93W, Dunn County. Associated federal actions by BIA include determinations of impacts and effects regarding environmental resources for developments on tribal lands.

The potential of the proposed actions to impact the human environment is analyzed in the attached addendum to an existing EA, as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that the proposed project will not significantly affect the quality of the human environment. No Environmental Impact Statement is required for any portion of the proposed activities.

This determination is based on the following factors:

1. Agency and public involvement solicited for the preceding NEPA document was sufficient to ascertain potential environmental concerns associated with the currently proposed project.
2. Protective and prudent measures were designed to minimize impacts to air, water, soil, vegetation, wetlands, wildlife, public safety, water resources, and cultural resources. The remaining potential for impacts was disclosed for both the proposed actions and the No Action alternative.
3. Guidance from the U.S. Fish and Wildlife Service has been fully considered regarding wildlife impacts, particularly in regard to threatened or endangered species. This guidance includes the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", and the Endangered Species Act (16 U.S.C. 1531 et seq.).
4. The proposed actions are designed to avoid adverse effects to historic, archaeological, cultural and traditional properties, sites and practices. Compliance with the procedures of the National Historic Preservation Act is complete.
5. Environmental justice was fully considered.
6. Cumulative effects to the environment are either mitigated or minimal.
7. No regulatory requirements have been waived or require compensatory mitigation measures.
8. The proposed projects will improve the socio-economic condition of the affected Indian community.

Acting

  
Regional Director

7-30-2012  
Date

# **ENVIRONMENTAL ASSESSMENT Addendum**

**United States Bureau of Indian Affairs**

**Great Plains Regional Office  
Aberdeen, South Dakota**



**WPX Energy Williston, LLC**

**Addendum to Environmental Assessment to Authorize Land Use for the Expansion of  
the Birdsbill #14-16H Well Pad to Accommodate the Addition of the HB Oil and Gas  
Well**

**Fort Berthold Indian Reservation**

**July 2012**

For information contact:  
Bureau of Indian Affairs, Great Plains Regional Office  
Division of Environment, Safety and Cultural Resources Management  
115 4th Avenue SE, Aberdeen, South Dakota 57401  
(605) 226-7656

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### **Appendix**

A Plats, Drawings, and Diagrams for the Proposed Birdsbill #14-16HB Well Location

## **1. Purpose and Need for the Proposed Action**

The purpose of the Proposed Action is to authorize land use by WPX Energy Williston, LLC (WPX), for the construction and installation associated with the expansion of the existing Birdsbill #14-16H well pad (expansion) to accommodate the addition of one oil and gas well, i.e., Birdsbill #14-16HB (well). Developments have been proposed on land held in trust by the United States within the Fort Berthold Indian Reservation, Dunn County, North Dakota.

The Bureau of Indian Affairs (BIA) is the surface management agency for potentially affected tribal lands and individual allotments and holds title to subsurface mineral rights. The economic development of available resources and associated BIA actions are consistent with BIA's general mission. Leasing and development of mineral resources offers substantial economic benefits to the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nation and to individual tribal members.

## **2. Authorities**

Oil and gas exploration and development activities are conducted under authority of the Indian Mineral Leasing Act of 1938 (25 United States Code [USC] 396a, et seq.), the Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), and the Energy Policy Act of 2005 (42 USC 15801, et seq.).

## **3. Legal Land Description for Proposed Action**

The Birdsbill #14-16H well pad is located approximately 4.7 miles east of Mandaree, North Dakota, in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 16, Township (T) 149 North (N), Range (R) 93 West (W), Dunn County, North Dakota (Figure 1). The proposed bottom hole for the Birdsbill #14-16HB well is approximately 2,075 feet from the west line and 250 feet from the north line in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 16, T149N, R93W, Dunn County.

## **4. Scope of Work for Proposed Action**

WPX proposes to increase the size of the existing well pad to accommodate drilling and ancillary storage equipment, in addition to a well surface hole, pertinent to the addition of one oil and gas well. Figure 1 and Appendix A provides a detailed project area map and plat schematics for the proposed expansion. The total disturbance area of the proposed expansion would be 3.08 acres, however, only 1.07 acres would be newly disturbed. The other 2.01 acres is part of the original pad's interim reclamation that would be re-disturbed. The proposed well would use a 640-acre spacing unit. The technical drilling specifications would be similar to those of the approved Birdsbill #14-16H well which is covered in a previous Environmental Assessment (see Section 8: Applicable NEPA Documents).

## **5. Resource Surveys**

SWCA Environmental Consultants (SWCA) conducted natural resource surveys for wetlands, noxious weeds, threatened and endangered species and habitat, migratory bird habitat, and

bald and golden eagles and their nests at the proposed expansion location and surrounding area on May 24, 2012. Migratory bird habitat is present in the project area, and WPX has committed to avoiding the taking of active migratory bird nests. While habitat for protected species may exist near the project area, no primary or secondary indications of protected species occurrences were observed during the field surveys.

A cultural resource inventory of this well pad expansion project was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 44.87 acres were inventoried between May 24 and 29, 2012 (Herson 2012). No historic properties were located that appear to possess the quality of integrity and meet at least one of the criteria (36 CFR 60.6) for inclusion on the National Register. As the lead federal agency, and as provided for in 36 CFR 800.5, on the basis of the information provided, BIA reached a determination of **no historic properties affected** for this undertaking. This determination was communicated to the THPO on June 27, 2012; however the THPO did not respond within the allotted 30 day comment period.

Herson, Chandler S.

(2012) A Class I and Class III Cultural Resource Inventory of the Birdsbill #14-16H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

## **6. Potential Effects to Cultural and Natural Resources**

There would be no potential direct impacts to cultural resources as a result of disturbance and/or the loss of sites eligible for the NHPA. No cultural resources that are potentially eligible for listing on the National Register are known to be present in the project area; therefore, there would be no adverse impacts to cultural resources as a result of the Proposed Action.

Potential direct impacts to natural resources may include the loss of native vegetation and wildlife habitat, soil disturbance, and erosion during construction that may adversely affect air and water quality. Impacts would be mitigated by using best management practices, such as using secondary containment on areas where there are steep inclines and drainages, and using matting and straw waddles on those steep areas during construction, to minimize erosion and sediment transport. In addition to the berm added as a standard BMP, fill would be placed at the tops of drainages to act as a secondary containment to prevent any event from moving off site.

In total, construction disturbance would affect approximately 1.07 acres. Potential indirect effects of the proposal could include release of sediment or fluids from the well pad, construction noise or traffic disturbance of general wildlife, and possible introduction of noxious weeds. Potential cumulative impacts of the proposal plus other foreseeable future oil and gas development on the Fort Berthold Indian Reservation could include habitat fragmentation from construction of other well pads and roads. By expanding existing well pads, new disturbance is kept to a minimum, thereby reducing the contribution of the proposed action to the cumulative effect. Any potential direct effects would be mitigated by surveying for and avoiding any eligible cultural resource sites; implementing an approved

stormwater pollution prevention plan and erosion control devices; avoiding any wetlands and federally listed threatened or endangered species or designated critical habitat; avoiding nesting migratory birds; and completing reclamation using appropriate native vegetation.

Any potential indirect effects would be mitigated by; stockpiling and re-using topsoil for reclamation; implementing best management practices for controlling the introduction of noxious weeds; and minimizing the length of time between drilling and reclamation.

Based on the resource surveys, evaluation of potential effects and mitigation measures, and consistency with the applicable NEPA documents, no significant direct, indirect, or cumulative impacts to natural and cultural resources are anticipated as a result of the changes proposed in this addendum.

## **7. Reclamation**

### **Interim Reclamation**

Reclamation would continue over the life of the expansion and would include the return of topsoil, and contouring and seeding of native vegetation. Initial reclamation would be required 6 months after construction, if environmentally feasible, and then following any maintenance work or additions of infrastructure. Reclamation would be required before final abandonment of the decommissioned well pad. A successful reclamation would at all times be the responsibility of the operator.

Applicable short- and long-term best management practices would be used to minimize and control erosion in disturbed areas. To reduce compaction, the well pad expansion area would be plowed before the stockpiled topsoil is distributed.

The disturbed areas would be reclaimed and contoured as soon as possible after construction is complete (fall/spring). The disturbed area outside of the working well pad would be covered with stockpiled topsoil and reseeded with a seed mixture determined by the BIA.

WPX would control any noxious weeds within the ROW and other applicable facilities by approved chemical or mechanical methods, according to the weed management plan developed by the BIA to treat known or likely to occur noxious weed species. If seeding of the ROW does not occur due to growing season constraints, WPX will deploy approved weed-free hay across the entire ROW to reduce the potential for excessive erosion as a result of spring snow melt and precipitation.

The entire ROW would be monitored for erosion, subsidence, and noxious weeds. In areas where problems are found to occur, reclamation efforts would continue until the BIA feels the ROW is successfully reclaimed. Reclamation is considered successful when:

- seeded areas are established;
- adjacent vegetative communities spread back into the disturbed areas; and
- noxious weeds are under control.

If the new seeding is not successful after two growing seasons, the BIA may require additional efforts to establish vegetation.

### **Final Reclamation**

Final reclamation would occur when the well pad, including the expansion, is decommissioned. All disturbed areas would be reclaimed, reflecting the BIA's view of oil and gas exploration and production as temporary intrusions on the landscape. All facilities would be removed. Access roads and work areas would be leveled or backfilled as necessary, scarified, recontoured, and seeded.

## **8. Applicable National Environmental Policy Act (NEPA) Document(s)**

*Environmental Assessment and Finding of No Significant Impact: Four Bakken Exploratory Oil Wells: Dakota-3 Birdsbill #14-16H, Dakota-3 Clark Fox #16-17H, Dakota-3 Birdsbill (894A) #4-35H, Dakota-3 Wolf #3-27H, Zenergy Operating Company, LLC (October 2009)*

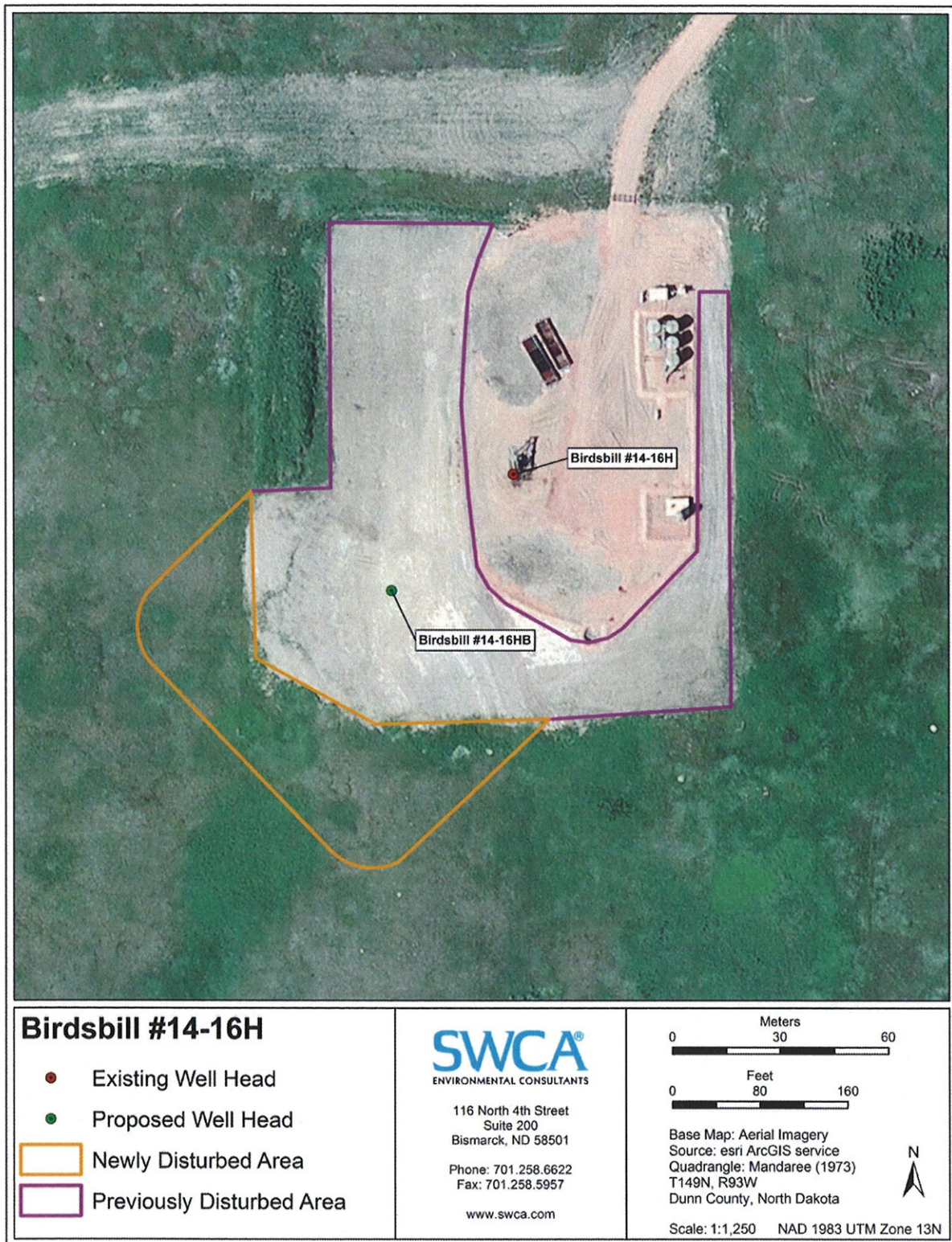
## **9. NEPA Adequacy Criteria**

This document has identified the above-mentioned previously prepared NEPA document, which adequately describes the environmental consequences of the newly proposed action described herein, and meets the following NEPA Adequacy Criteria.

1. The proposed action is substantially the same action and at the site specifically analyzed in the existing NEPA document.
2. The range of alternatives is reasonable with respect to the current proposed action in the existing NEPA document, which appropriately considers and analyzes current environmental concerns, interests, and resource values.
3. The existing analysis and conclusions are adequate in the existing NEPA document. The analysis is still valid in light of new studies or resource assessment information.
4. The methodology and analytical approach used in the existing NEPA document continues to be appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are unchanged from those identified in the existing NEPA document.
6. The cumulative impacts that would result from implementation of the proposed action are unchanged from those analyzed in the existing NEPA document.
7. A 30-day comment period involving public input and interagency review was used in the development of the existing NEPA document.



*Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Birdsbill  
#14-16H Well Pad to Accommodate the Addition of the HB Oil and Gas Well  
(July 2012)*



**Figure 1. Map of the Approved Birdsbill #14-16H Well Pad Location and Proposed Expansion Area.**

*Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Birdsbill  
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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Great Plains Regional Office  
115 Fourth Avenue S.E., Suite 400  
Aberdeen, South Dakota 57401

JUN 27 2012

Elgin Crows Breast, THPO  
Mandan, Hidatsa and Arikara Nation  
404 Frontage Road  
New Town, North Dakota 58763

Dear Mr. Crows Breast:

We have considered the potential effects on cultural resources of four oil well pad projects in Dunn and McKenzie Counties, North Dakota. Approximately 204.32 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed reports. No historic properties were located that appear to possess the quality of integrity and meet at least one of the criteria (36 CFR 60.4) for inclusion on the National Register of Historic Places. No properties were located that appear to qualify for protection under the American Indian Religious Freedom Act (42 USC 1996).

As the surface management agency, and as provided for in 36 CFR 800.5, we have therefore reached a determination of **no historic properties affected** for these undertakings. Catalogued as **BIA Case Number AAO-2092/FB/12**, the proposed undertakings, locations, and project dimensions are described in the following reports:

Herson, Chandler S.

(2012a) A Class I and Class III Cultural Resource Inventory of the Charles Packineau #17H Well Pad and Utility Corridor, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

(2012b) A Class I and Class III Cultural Resource Inventory of the Minot Grady #26-35H Well Pad and Utility Corridor, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

(2012c) A Class I and Class III Cultural Resource Inventory of the Birdsbill #14-16H Well Pad Expansion, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

Reinhart, Damien S.

(2012) A Class I and Class III Cultural Resource Inventory of the Rachel Wolf #27H Well Pad and Utility Corridor, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

If your office concurs with this determination, consultation will be completed under the National Historic Preservation Act and its implementing regulations. We will adhere to the Standard Conditions of Compliance.

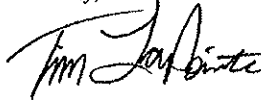
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(July 2012)*

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If you have any questions, please contact Dr. Carson N. Murdy, Regional Archaeologist,  
at (605) 226-7656.

Sincerely,



Acting

Regional Director

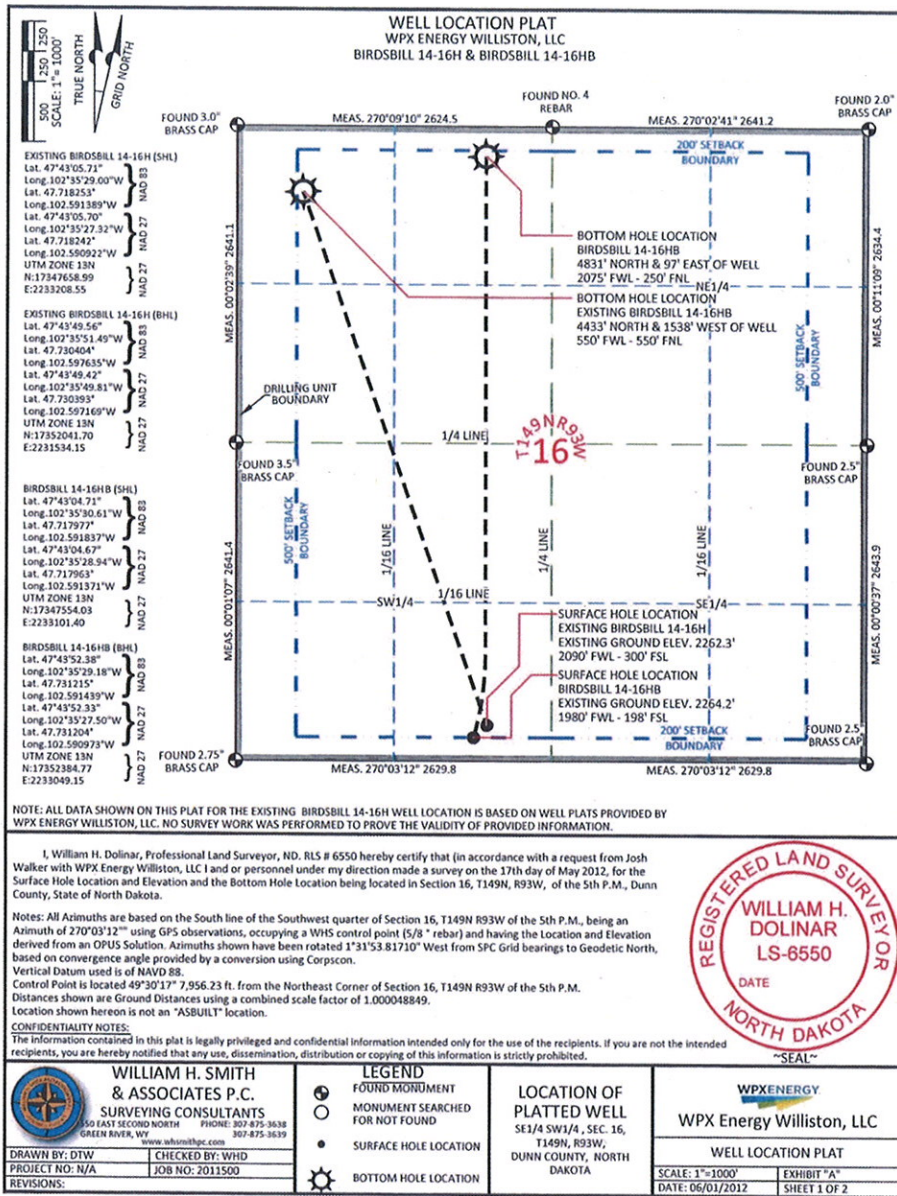
Enclosures

cc: Chairman, Three Affiliated Tribes  
Superintendent, Fort Berthold Agency

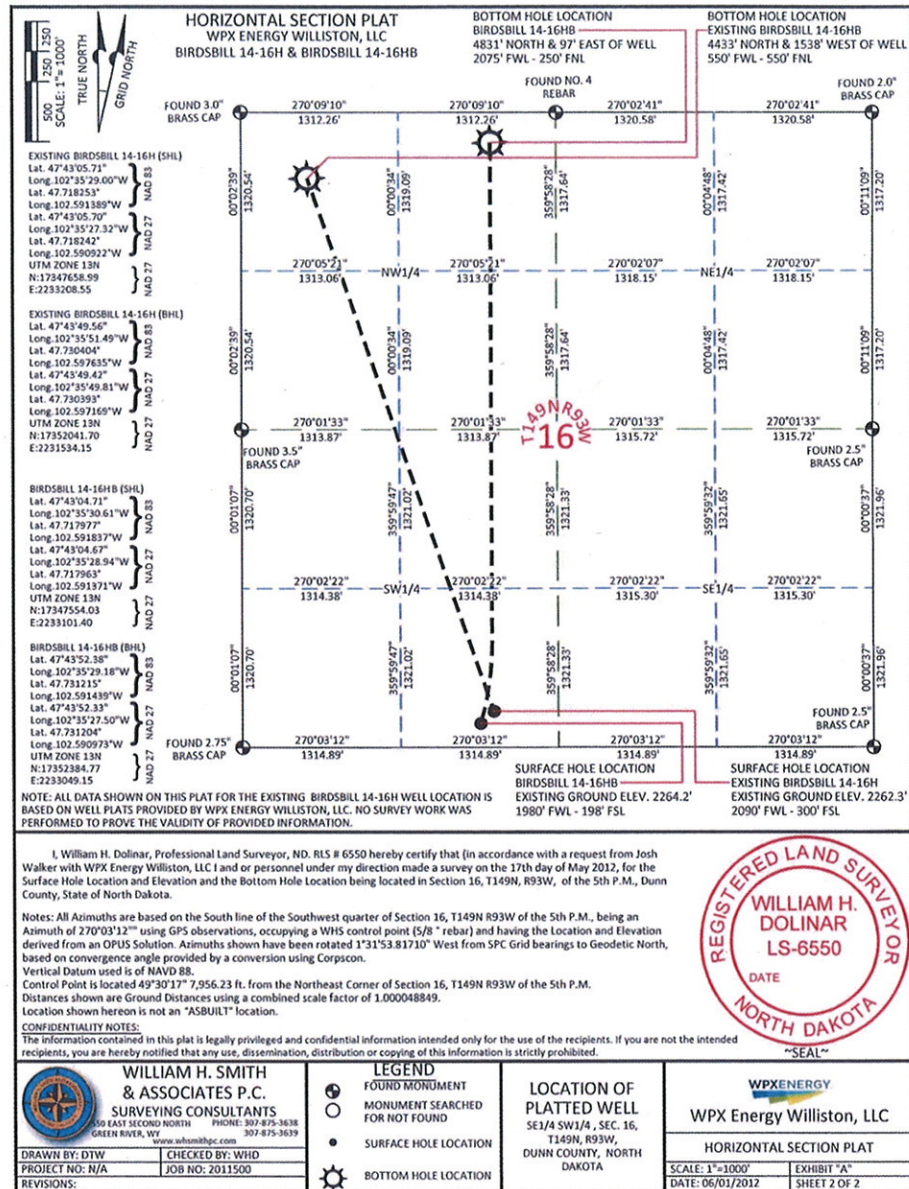
## **APPENDIX A**

### **Plats, Drawings, and Diagrams for the Proposed Birdsbill #14-16HB Well Location**



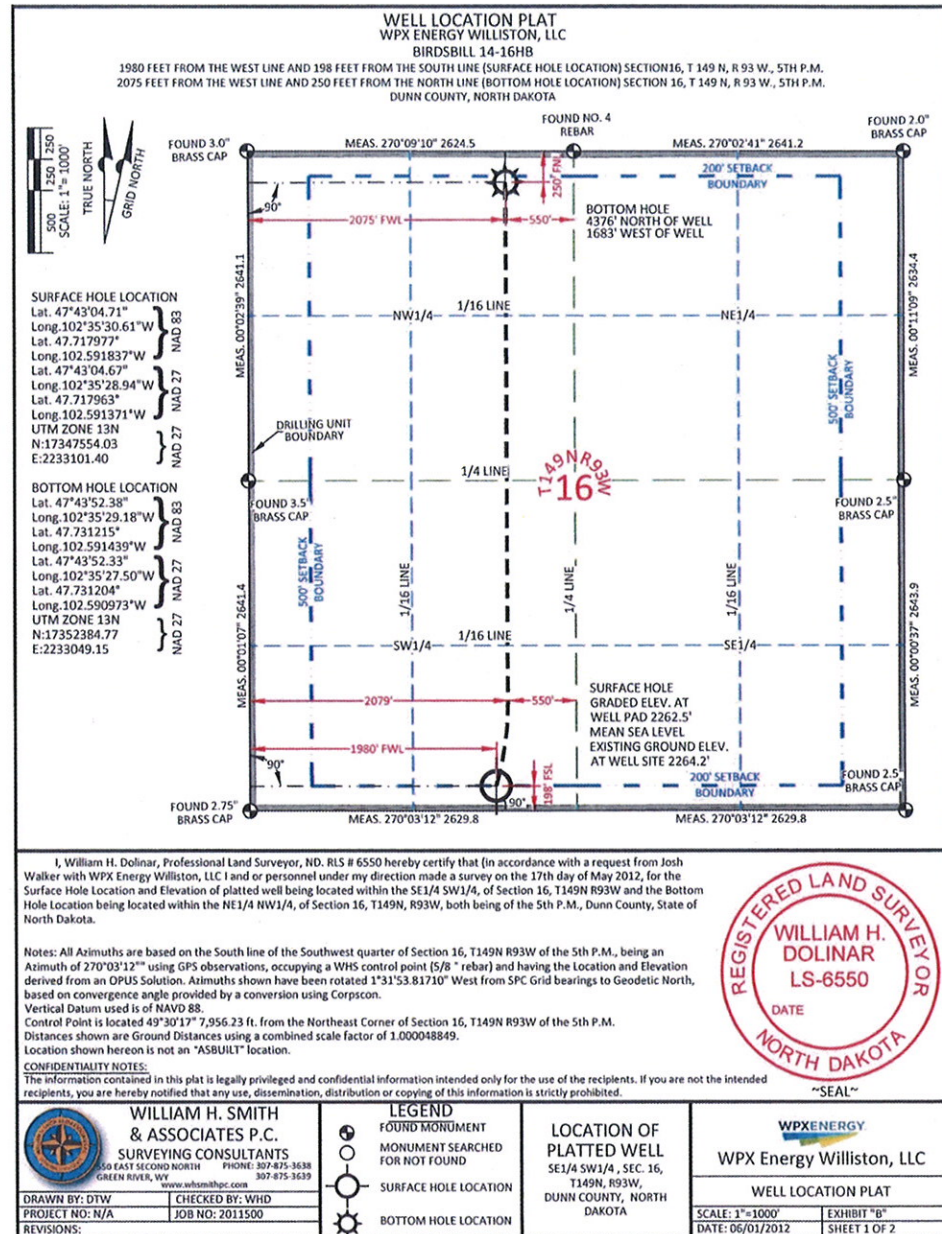


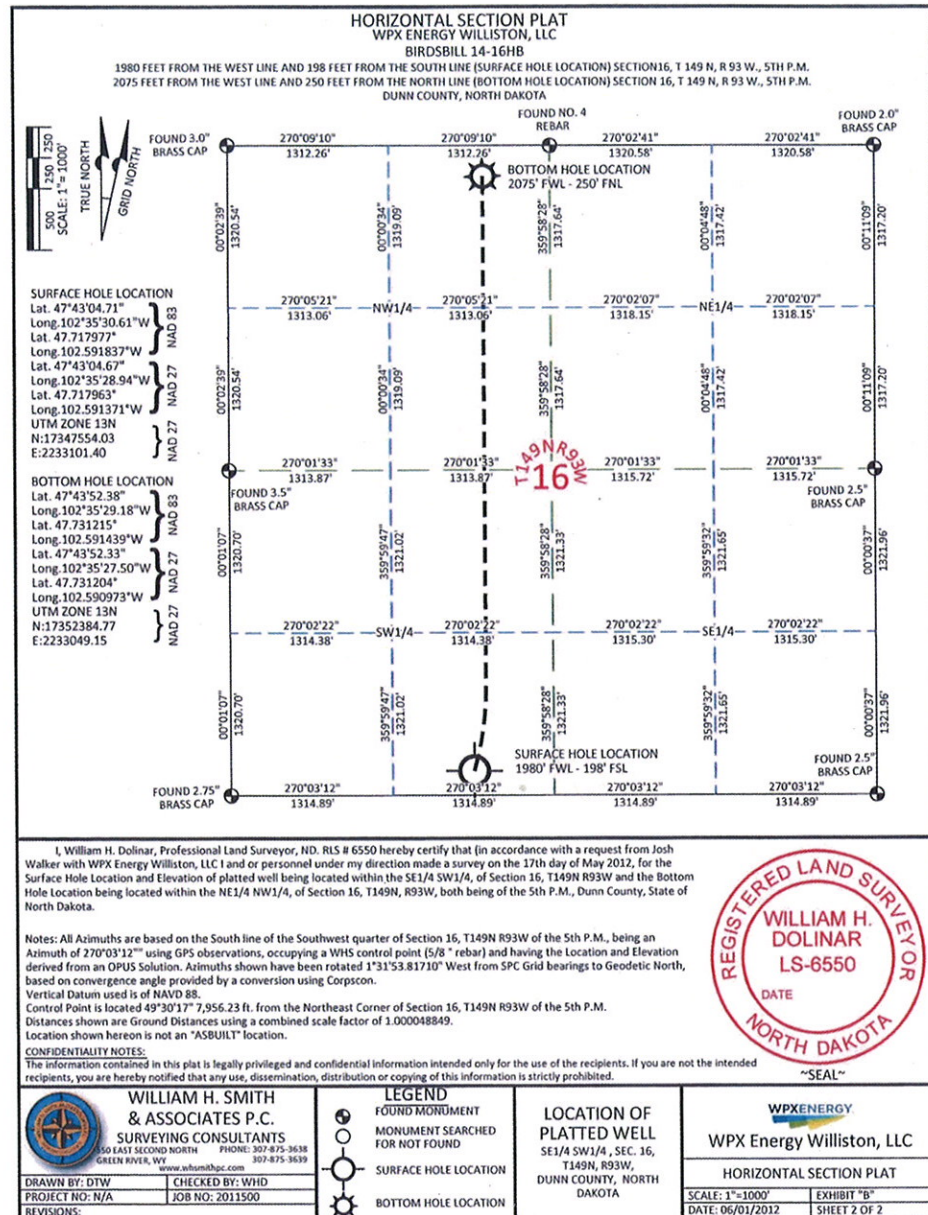
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(July 2012)**





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(July 2012)**









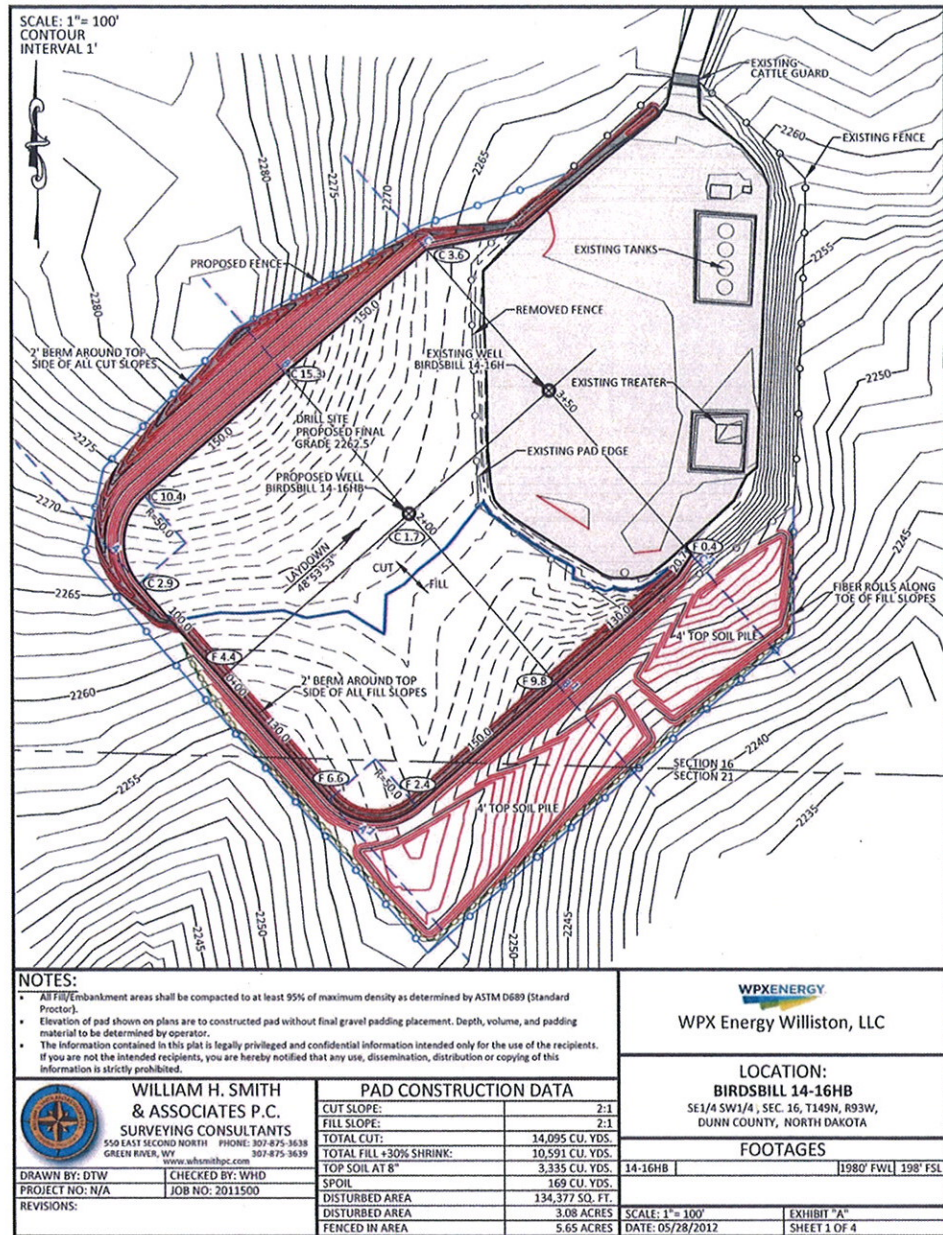
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(July 2012)*

WELL COORDINATE LIST WPX ENERGY WILLISTON, LLC BIRDSBILL 14-16HB										
Well Name	Geographic NAD 83			Geographic NAD 27			UTM Zone 13			
	Dec. Min. Dec. Max.	Latitude	Longitude	Dec. Min. Dec. Max.	Latitude	Longitude	Northings	Eastings	Footage	
BIRDSBILL 14-16HB (SHL)	47°43'04.71"	102°35'30.61"	47°43'04.67"	102°35'28.94"	47°43'04.67"	102°35'28.94"	17347554.03	1233101.40	1980' FWL 198' FSL	SEC 16 T49N R93W
BIRDSBILL 14-16HB (BHL)	47°43'52.35"	102°35'29.18"	47°43'52.33"	102°35'27.50"	47°43'52.33"	102°35'27.50"	17352384.77	1233049.15	1075' FWL 1250' FSL	SEC 16 T49N R93W

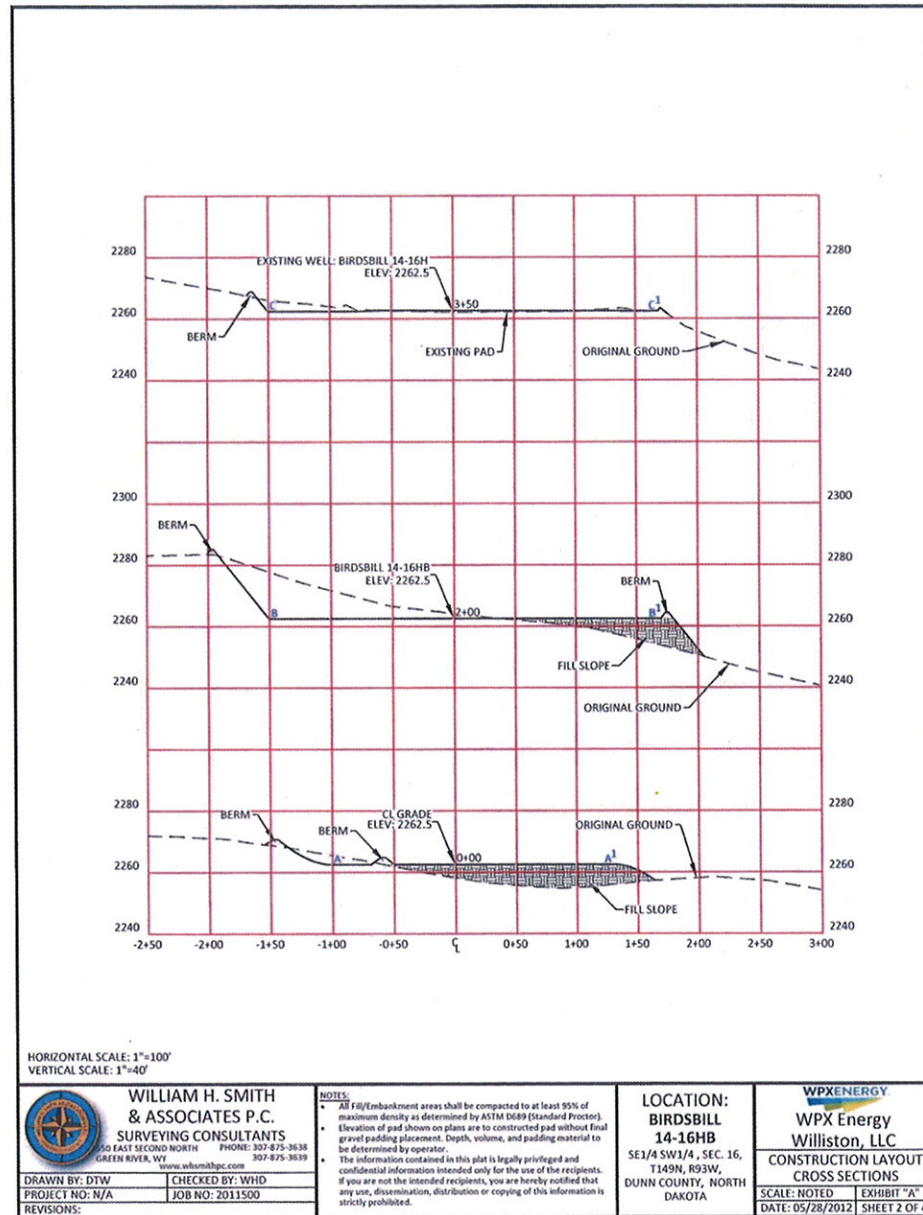
 <b>WILLIAM H. SMITH &amp; ASSOCIATES P.C.</b> SURVEYING CONSULTANTS 1000 W. 10th Street, Suite 100 OAKEN, MINN. 55122 PHONE: 202-272-8839 FAX: 202-272-8839 E-MAIL: WHS@WHSURV.COM	<b>LOCATION</b> <b>BIRDSBILL 14-16HB</b> SEC 16, T49N, R93W, DUNN COUNTY, NORTH DAKOTA	 <b>WPX Energy Williston, LLC</b> WELL COORDINATE LIST DATE: 06/07/2012
	SHEET 1 OF 1	

**Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Birdsbill  
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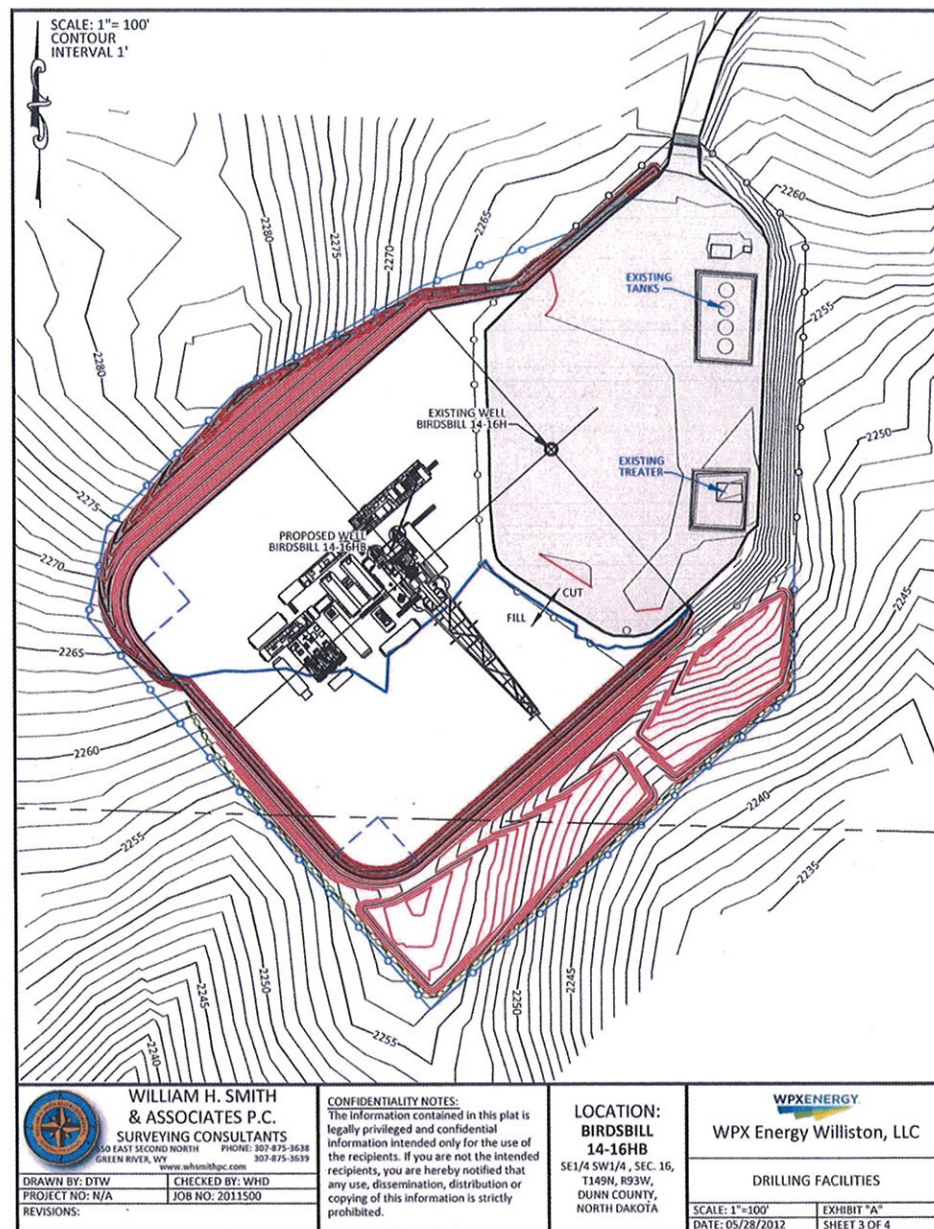




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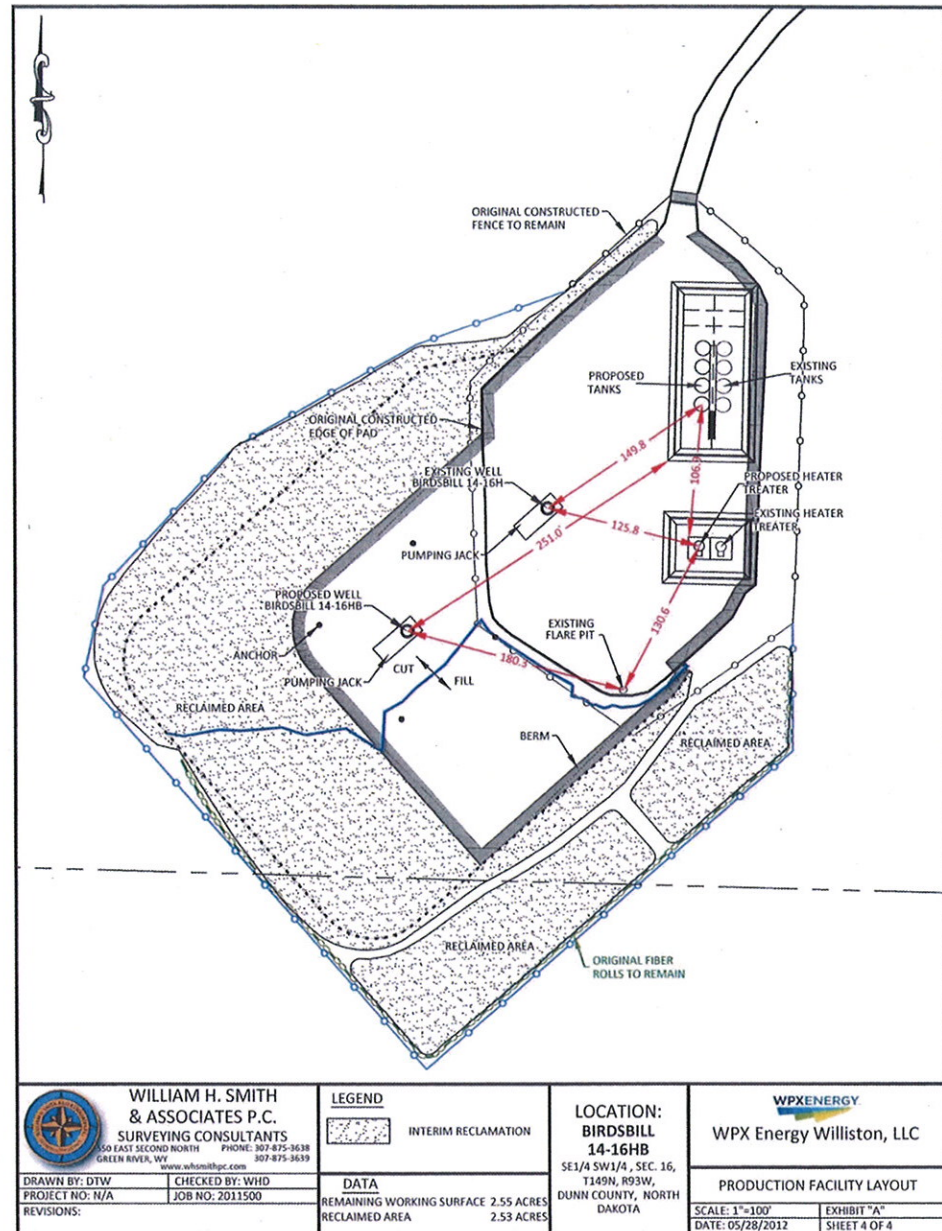


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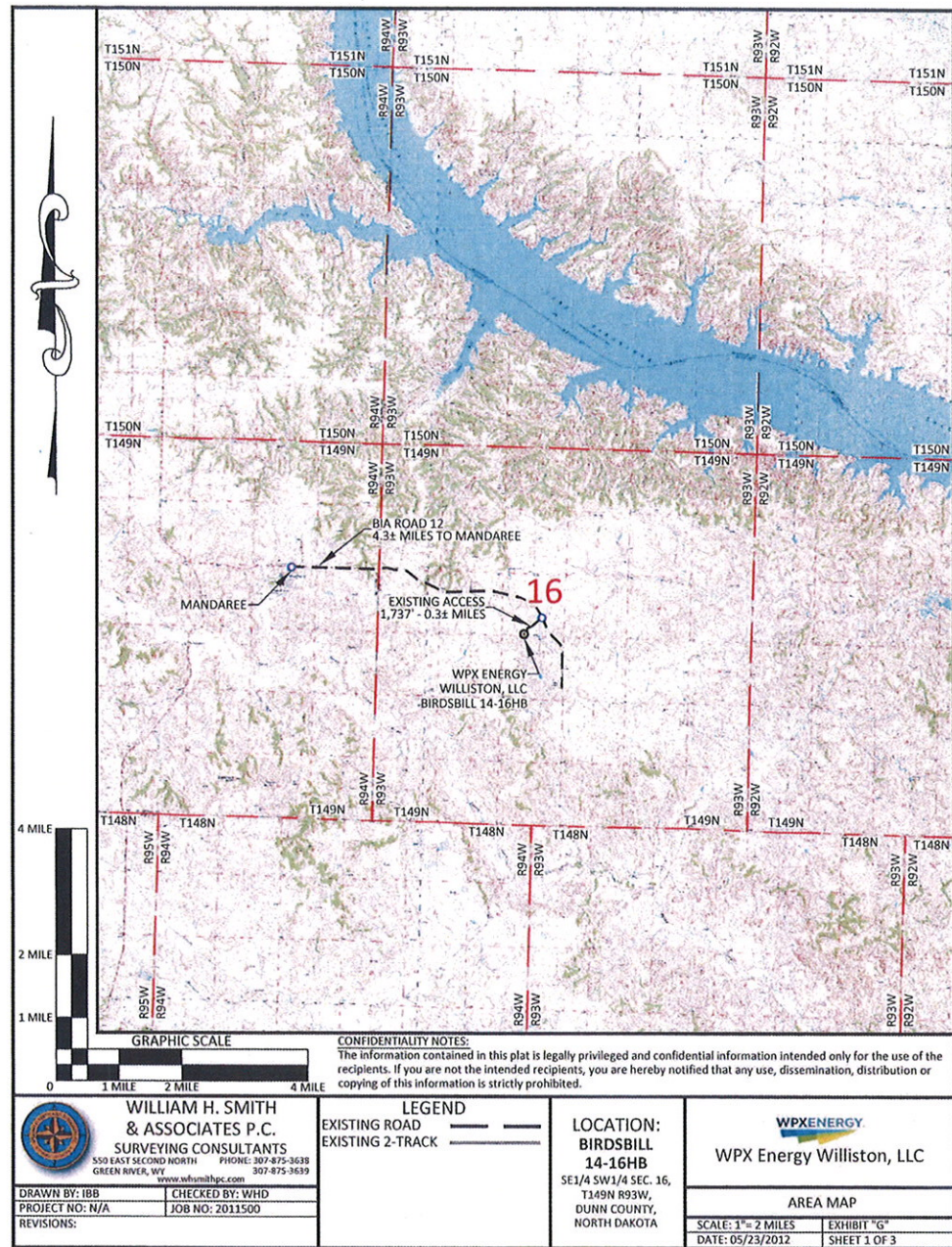




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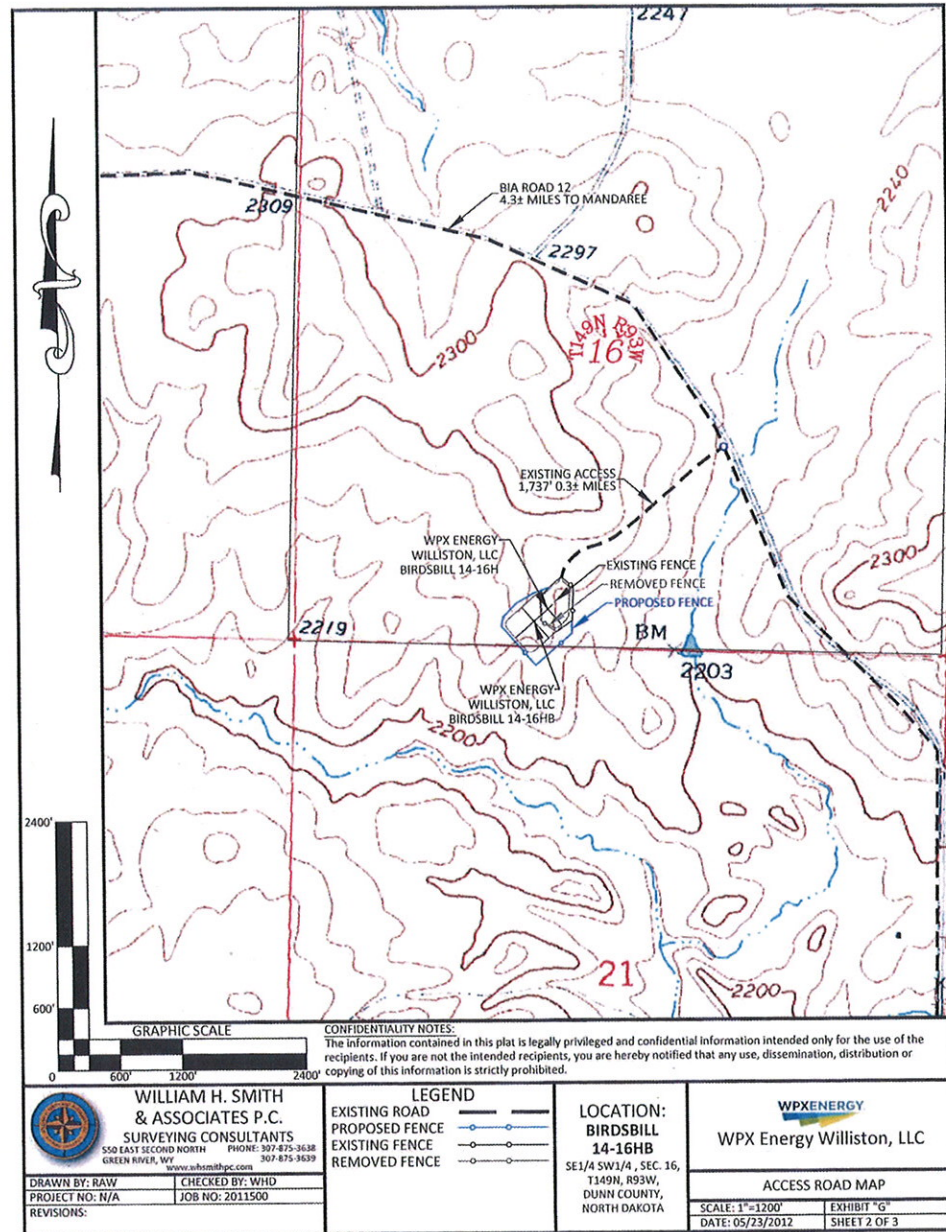


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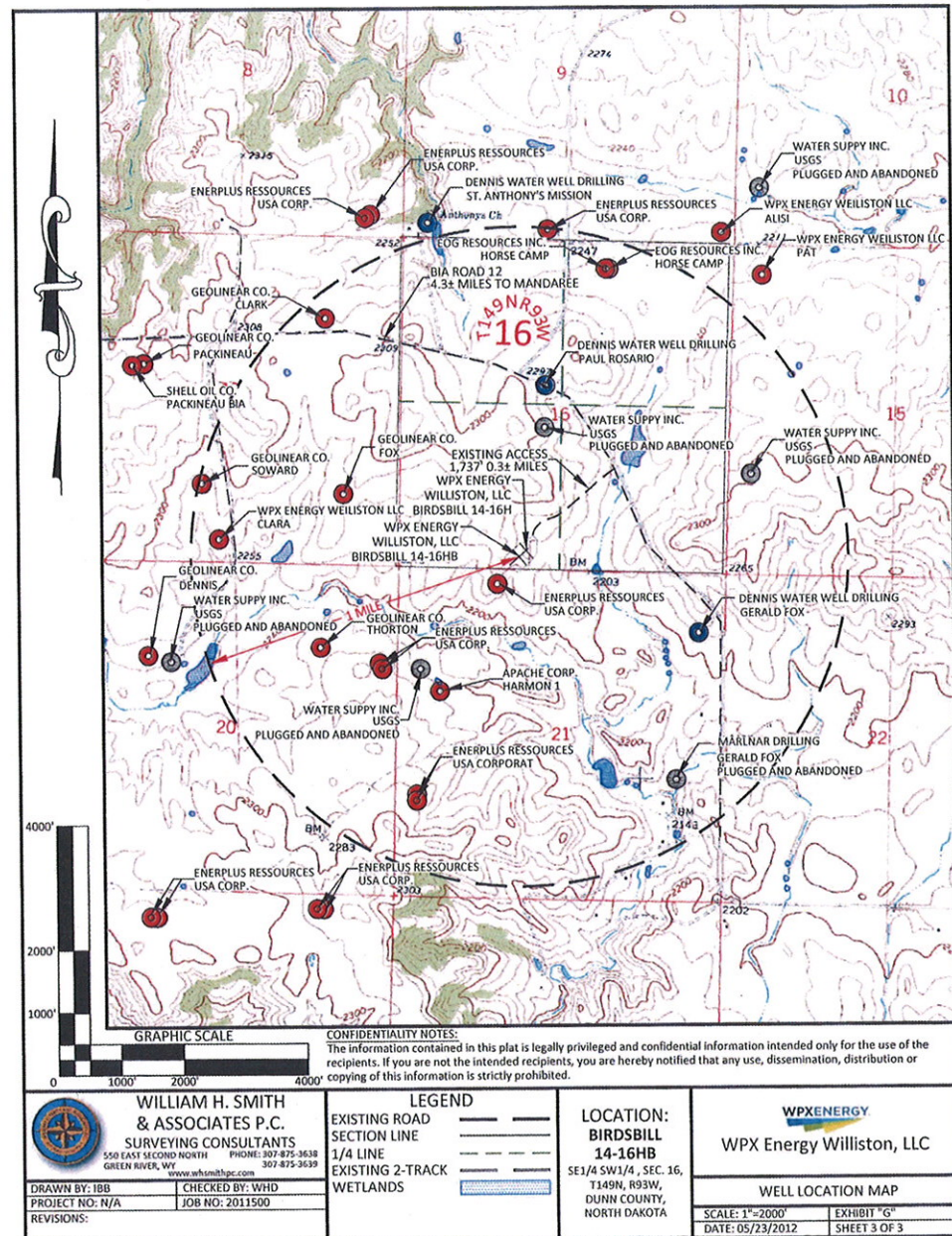




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(July 2012)*





DAKOTA-3 E&P COMPANY, LLC.

BIRDSBILL 14-16HB

SECTION 16, TOWNSHIP 149 NORTH, RANGE 93 WEST, 5TH P.M.  
DUNN COUNTY, NORTH DAKOTA

Proceed in a Easterly direction from Mandaree, North Dakota along Bia Road 12 approximately 4.3 miles to the junction of this road and existing access road; turn Right and proceed in a Southwesterly direction approximately 0.3 miles to the existing well location.

Total distance from Mandaree, North Dakota to the proposed well location is approximately 4.6 miles.

# **Notice of Availability and Appeal Rights**

WPX Energy: Expansion of the Birdsbill #14-16H Well Pad to Accommodate the Addition of the HB Oil and Gas Well

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to the Expansion of the Birdsbill #14-16H Well Pad to Accommodate the Addition of the HB Oil and Gas Well on the Berthold Reservation as shown on the attached map. Construction by WPX Energy is expected to begin in 2012.

An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Earl Silk, Superintendent at 701-627-6570 for more information and/or copies of the EA and the Finding of No Significant Impact (FONSI).

The FONSI is only a finding on environmental impacts – it is not a decision to proceed with an action and *cannot* be appealed. BIA's decision to proceed with administrative actions *can* be appealed until August 28, 2012, by contacting:

United States Department of the Interior  
Office of Hearings and Appeals  
Interior Board of Indian Appeals  
801 N. Quincy Street, Suite 300, Arlington, Va 22203.

Procedural details are available from the BIA Fort Berthold Agency at 701-627-6570.

Project locations.

